IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 3666 of 2005

Between:

Sri Venkata Satyanarayana Saw Mill, Main Road, Chodavaram, Visakhapatnam rep.by its
Proprietor Ch.Suryanarayana Raju S/o.Tammi Raju, R/o.Chodavaram.

..... PETITIONER

AND

1 The Superintending Engineer, Assessments, APEPDCL, Dabagardens, Near Leela Mahal,
visakhapatnam.
2 The Asst. Divisional Engineer, Operation, Chodavaram, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the provisional Assessment Notice dt.2-8-2004 issued by the 2nd respondent vide letter No.ADE/O/ CDM/FDKT/D.NO.1293/04, as confirmed by the 1st respondent in Lr.No.SE/A/VSP/ANK/D.CDV/pf.1799, D.No.2214/2004, dt.13-8-2004 as illegal, arbitrary, and unjust and for a consequential order to suspend the operation of the said impugned orders and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.K.V.L.NARASIMHA RAO

Counsel for the Respondents: MR.M.SREERAMULU REDDY

The Court at the admission stage made the following :

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ORDER:.

Petitioner herein, challenges the provisional assessment notice dated 2.8.2004, issued by the second respondent vide letter No. ADE/O/CDM/FDK/D.NO. 1293/04, as confirmed by the first respondent in his letter dated 13.8.2004, whereby provisional estimation for a sum of Rs. 2,07,649/- was made indicating further that in order to get restoration of power supply, pending enquiry, the petitioner was asked to deposit a sum of Rs. 1,03,824.50.

From a perusal of the impugned order, it is seen that pending enquiry, provisional assessment had been made on the ground that an enquiry has to be conducted.

This situation had already arisen before another learned single Judge of this court in Writ Petition No. 24491 of 2004, who following the judgment rendered by a Division Bench of this court in Writ Appeal Nos. 452 and 477 of 2004, allowed the Writ Petition holding that a consumer cannot be fastened with any liability unless an order of final assessment is passed, and set aside the impugned order dated 15.10.2004 and directed the respondents to supply power without insisting on payment of the said amount.

Following the said judgment of the learned single Judge, which was passed basing on the judgment rendered by the

Division Bench, I am of the view that the impugned order is liable to be set aside as indicated above.

Accordingly, following the same, the Writ Petition is allowed and the impugned order dated 2.8.2004 is set aside. The petitioner shall be supplied with the power, without insisting on payment of the said amount. However, the petitioner is liable to pay the regular consumption charges. No costs.

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D.S.R. VARMA, J

DATED: 28.02.2005

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Note: Furnish copy in two days.

To

1 The Superintending Engineer, Assessments, APEPDCL, Dabagardens, Near Leela Mahal,
visakhapatnam.
2 The Asst. Divisional Engineer, Operation, Chodavaram, Visakhapatnam.

3. 2 CD Copies.